

TOWN BOARD OF THE TOWN OF MONROE  
ORANGE COUNTY: STATE OF NEW YORK

IN THE MATTER of the Petition of

X

HIGHVIEW PROPERTIES D.H.F. INC.

for a hardship variance under the Town's  
Moratorium under Local Law No.1 of 2016

X

**TO: THE TOWN BOARD OF THE TOWN OF MONROE, NEW YORK:**

Petitioner HIGHVIEW PROPERTIES D.H.F. INC., pursuant to Section 3 of Town Local Law No. 1 entitled "Implementing a Moratorium on the Development of Residential Property of the Unincorporated Town of Monroe, New York" (the "Moratorium"), respectfully petitions the Town Board for a hardship variance from the application of the Moratorium as follows:

1. Petitioner is a duly formed and existing business corporation organized under the laws of the State of New York, with offices at 27 Route 210, Stony Point, New York, 10980.
2. Petitioner is the owner of premises, being a portion of the premises conveyed to the Petitioner by deed dated July 25, 1986 and recorded in the Orange County Clerk's Office at Liber 2550, page 288, said premises being designated on the Town Tax Maps as Section 29, Block 1, Lot 29.52, consisting of 134.11 +/- acres (the "Property").
3. Petitioner has obtained Conditional Final Subdivision Approval for its proposed subdivision of the Property, known as Henry Farms Realty Subdivision,: from the Town Planning Board, as set forth in the "Resolution of Final Subdivision, Site Plan, Special Exception Use Permit, Local Wetlands Disturbance Permit for Henry Farms Realty Subdivision [Highview Properties D.H.F., Inc.]" (the "Resolution") dated April 14, 2015.

4. The Resolution approved a subdivision of the Property into 65 single family detached residential dwelling lots and 50 townhouse units, one commercial lot (for future development) and six lots to be dedicated to the Town.

5. The original application to the Planning Board for the project was filed in May, 2000. Preliminary Subdivision Approval was granted on or about June 8, 2004. The Planning Board acted as Lead Agency under SEQRA and filed a Final Environmental Impact Statement on or about February 13, 2004. The Planning Board issued its Lead Agency SEQRA Findings Statement on or about May 4, 2004.

6. Pursuant to Section 3 of the Moratorium, the following are submitted herewith, on two (2) compact discs, in consideration of this Petition:

1. Resolution of Approval Final Subdivision Site Plan, Special Exception Use Permit, Local Wetlands Disturbance Permit for Henry Farms Realty Subdivision [Highview Properties D.H.F., Inc. filed with the Town Clerk on April 15, 2015.]
2. Henry Farm Estates Draft Environmental Impact Statement dated July 26, 2002.
3. Henry Farm Estates Final Environmental Impact Statement revised print date February 13, 2004.
4. Lead Agency SEQRA Findings Statement- Henry Farm Estates, adopted May 4, 2004.
5. Henry Farms Realty Subdivision approved full plan set last revised March 2, 2015.
6. Henry Farms Subdivision Stormwater Pollution Prevention Plan last revised December 2010.
7. Water Supply Approval:  
A. Henry Farm Estates Water Supply Report dated December 15, 2003.  
B. Henry Farm Estates Water Supply Permit Application dated March 4, 2005.  
C. New York State Department of Health Approval of Plans for Public Water Supply Improvement dated June 17, 2008.

- D. New York State Department of Environmental Conservation Water Supply Approval and 401-Water Quality Certification dated November 21, 2005.
- 8. Orange County Department of Health Realty Subdivision Approval:
  - A. Approval of Plans for Henry Farms Subdivision Realty Subdivision letter dated April 26, 2016.
  - B. OCHD approved and signed Henry Farms Realty Subdivision plan set last revised April 1, 2016.
- 9. Orange County Department of Health Water Main Extension Approval:
  - A. Approval of plans and specifications letter dated September 17, 2007.
  - B. Water Main Extension Technical Specifications dated September 2007.
  - C. Water System to Serve Henry Farms Engineering Report last revised July, 2007.
  - D. Orange County Health Department Signed Water System to serve Henry Farms plan set last revised July 25, 2007.
- 10. Orange County Department of Health Offsite Highview Road Water Main Extension Preparation:
  - A. Application for Approval of Plans for Public Water Supply Improvement
  - B. Highview Road Technical Specifications dated October 2008.
  - C. Water Main Extension to serve Highview Road plans last revised January 20, 2016.
  - D. Mark Edsall email to Town Board for application signature dated April 21, 2016.
- 11. New York State Department of Environmental Conservation (NYSDEC) and Moodna Basin Sewer Commission (Moodna) Sewer Main Extension Approval:
  - A. Application for Approval of Plans for a Wastewater Disposal System signed by Moodna Sewer Administrator
  - B. NYSDEC Approval of Plans and Specifications for the Sanitary Sewer Extension, Municipal Pump Station and Grinder Pump Stations to Serve Henry Farms Subdivision dated April 16, 2010.
  - C. NYSDEC Re-approval of Plans and Specifications for the Sanitary Sewer Extension, Municipal Pump Station and Grinder Pump Stations to Serve Henry Farms Subdivision dated March 17, 2015.
  - D. Sewer Main Extension to serve Henry Farms Engineering Report last revised March 2010.
  - E. Henry Farms Subdivision Technical Specifications for Submersible Pumping Station last revised March 2010.
  - F. Henry Farms Subdivision Technical Specifications for Sewer Extension last revised May 2009.
  - G. NYSDEC signed Sewer Main Extension to serve Henry Farms plan set last revised 2010-03-23.

12. New York State DEC SPDES General Permit# GP-0-10-01:
  - A. Notice of Intent dated February 13, 2011.
  - B. MS4 SWPPP Acceptance Form dated February 23, 2011.
  - C. NYSDEC Acknowledgement of Notice of Intent dated March 22, 2011.
13. Department of the Army Wetland Mitigation Approval:
  - A. Department of the Army Permit Application Number NAN-2007-01031- WOR Mitigation Approval dated September 3, 2014.
  - B. Department of the Army Permit Application Number NAN-2007-01031-WOR Jurisdictional Letter dated July 20, 2010.
  - C. Henry Farms ACOE Wetland Disturbance Maps last revised June 13, 2014. D. Henry Farms ACOE Wetland Creation and Enhancement Plan last revised October 20, 2011.
14. Orange County Department of Public Works Entrance Approval Letter dated July 28, 2006.
15. Pietrzak & Pfau, PLLC submittal letter to Planning Board containing Road Specifications for Town Roads waiver prepared by Town Highway Superintendent dated November 12, 2014.
16. Town Board Actions required by Conditional Final Approval Resolution:
  - Formation:
    - A. Blustein, Shapiro, Rich & Barone, LLP letter to Town Board regarding Drainage District, Sidewalk Waiver, Conservation dated December 4, 2015.
    - B. Drainage District Formation:
      - i. Blustein, Shapiro, Rich & Barone, LLP letter to Town Board regarding Petition to form Henry Farm Drainage District dated February 22, 2016.
      - ii. Drainage District Formation Short Environmental Assessment Form.
      - iii. Map, Plan & Report for Drainage District Formation Henry Farms Subdivision dated November 2015.
7. Any other documents required by the Town Board shall be provided by the Petitioner upon request.
8. Upon information and belief, there are no outstanding municipal violations affecting the Premises.
9. The outstanding conditions in the Resolution are:

- a. Formation of Drainage District: Petitions have been filed with the Town Board and a public hearing was scheduled and subsequently cancelled because of the implementation of the Moratorium;
- b. Dedication of open space parcels shown on the Plat: Request was made to the Town Board for resolution accepting dedication of the parcels;
- c. Waiver of sidewalks per Town Code § A63-13(E): Request was made to the Town Board for resolution waiving sidewalks as shown on the Plat, per recommendation of the Planning Board.
- d. Payment of any required fees and posting of any required bonds.

10. The Petitioner seeks a variance exempting the Henry Farms Realty Subdivision, approved by the Planning Board by the Resolution, from the terms of the Moratorium. Such variance from the Moratorium will not result in a variance from the previous conditions and decisions of the Planning Board in adopting the Resolution.

11. The approved subdivision is and will continue to be consistent and comply with all previous decisions and findings of the Planning Board and the Town Board.

12. The Petitioner is not presently in front of the Planning Board or Zoning Board of Appeals requesting a waiver from any previous approval or finding.

13. Petitioner has had no return on its investment in the development of the Property since filing its subdivision application in the year 2000.

14. Since 2000, Petitioner has invested in excess of \$1,940,328.67 in the acquisition and approval process (see annexed Schedule "A" of itemized expenses), and has paid in excess of \$500,000.00 in real estate taxes and insurance premiums over that time period.

15. Currently, the only remaining actions to be had by the Town Board and the Planning Board to accomplish the filing of the approved subdivision map are essentially administrative. All such actions were contemplated in the SEQRA review of the project, and the findings of the lead agency on the FEIS for the project found no adverse environmental impacts.

16. Petitioner hereby seeks a variance, as defined in the Moratorium, from the terms thereof in the form of an exemption from the prohibitions of the Moratorium, so as to allow Petitioner to meet all conditions in the Resolution, allow for the signing and filing of the approved subdivision plat, to allow for the issuance of development and building permits for the installment of all required infrastructure required by the approval, and the construction of the dwelling units thereon.

17. Based on the foregoing, the Petitioner is suffering a severe hardship without the relief requested herein as Petitioner is prohibited from realizing any economic return on its investment in the Property. The Property is located in a residential district, the approved development of the Property has been exhaustively reviewed under SEQRA and all involved agencies, leading to the conclusion by the Planning Board in the Resolution that:

"The Planning Board has determined that approval of this final subdivision will substantially serve the public convenience, safety and welfare in that the land to be subdivided is of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace. Further, the arrangement, location and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the possible future development of adjoining land as yet un-subdivided are all appropriate and consistent with the requirements of the master plan, the official map, the Town of Monroe Subdivision Regulations and applicable zoning regulations, subject to compliance in full with conditions hereinafter imposed."

WHEREFORE, your Petitioners pray that the Town Board take such steps and such actions as may be necessary to grant the relief sought in this petition.

Dated: Goshen, New York  
May 27, 2016

Respectfully,

JAY R. MYROW, ESQ.  
BLÜSTEIN, SHAPIRO, RICH & BARONE, LLP  
Attorneys for Petitioner  
10 Matthews Street  
Goshen, New York 10924  
(845) 291-0011

HIGHVIEW PROPERTIES D.H.F. INC.

By: William J. Helmer  
William Helmer, President

VERIFICATION

STATE OF NEW YORK )  
                        ) ss:  
COUNTY OF ORANGE )

I, William Helmer, being duly sworn depose and say that: I am the President of the Petitioner named above, and I have read the foregoing Petitioner, and know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters I believe them to be true.

William J Helmer  
William Helmer

Sworn to before me on this  
27<sup>th</sup> day of May, 2016

Notary Public

JAY R. MYROW  
Notary Public, State of New York  
No. 02MY6053208  
Qualified in Orange County  
Commission Expires January 8, 2019

## Schedule "A"

**Highview Properties DHF, Inc.**  
**Schedule of Capitalized Costs**

					Sub-Totals by
	<u>Date</u>	<u>Check #</u>	<u>Payee</u>	<u>Amount</u>	<u>Payee</u>
<b>2010 - Site Fees</b>					
Total - 1985-2002				658,633.76	658,633.76
Check	09/11/2007	505	ERS Consultants, Inc.	7,500.00	
Check	04/22/2010	578	ERS Consultants, Inc.	525.00	8,025.00
Check	11/20/2008	539	Heritage Custom Homes	1,200.00	1,200.00
Check	04/26/2005	435	Jacobowitz & Gubits LLP	117.70	117.70
Check	02/11/2004	386	JAMES G. SWEENEY	600.00	
Check	02/24/2004	390	JAMES G. SWEENEY	300.00	
Check	02/24/2004	393	JAMES G. SWEENEY	800.00	
Check	05/28/2004	398	JAMES G. SWEENEY	600.00	
Check	06/15/2004	401	JAMES G. SWEENEY	1,200.00	
Check	11/16/2004	414	JAMES G. SWEENEY	2,689.59	
Check	05/03/2007	494	JAMES G. SWEENEY	1,800.00	
Check	01/07/2010	567	JAMES G. SWEENEY	750.00	
Check	06/04/2010	584	JAMES G. SWEENEY	300.00	
Check	02/07/2011	614	JAMES G. SWEENEY	300.00	
Check	03/10/2011	623	JAMES G. SWEENEY	3,150.00	
Check	05/10/2011	627	JAMES G. SWEENEY	600.00	13,089.59
Check	01/22/2010	569	JOHN PETROCCIONE	500.00	500.00
Check	10/31/2013	712	NYS Department of Environmental	100.00	
Check	02/06/2015	757	NYS Department of Environmental	50.00	
Check	09/23/2015	772	NYS Department of Environmental	110.00	260.00
Check	10/10/2012	678	NYS DES	14,370.00	
Check	11/09/2012	683	NYS DES	100.00	14,470.00
Check	02/20/2008	522	ORANGE COUNTY DEPT OF HEALTH	9,750.00	9,750.00
Check	05/28/2004	397	PIETRZAK & PFALL	5,030.00	
Check	09/01/2004	409	PIETRZAK & PFALL	5,000.00	
Check	09/01/2004	413	PIETRZAK & PFALL	10,000.00	
Check	02/08/2005	426	PIETRZAK & PFALL	10,000.00	
Check	04/26/2005	434	PIETRZAK & PFALL	2,329.27	
Check	07/01/2005	440	PIETRZAK & PFALL	476.25	
Check	09/13/2005	446	PIETRZAK & PFALL	535.00	
Check	12/06/2005	455	PIETRZAK & PFALL	10,435.00	
Check	12/06/2005	456	PIETRZAK & PFALL	262.50	
Check	06/20/2006	468	PIETRZAK & PFALL	810.00	
Check	12/19/2006	482	PIETRZAK & PFALL	7,250.00	
Check	05/08/2007	496	PIETRZAK & PFALL	10,041.25	
Check	05/08/2007	497	PIETRZAK & PFALL	3,625.00	
Check	07/31/2007	504	PIETRZAK & PFALL	7,250.00	
Check	11/29/2007	512	PIETRZAK & PFALL	5,000.00	
Check	03/27/2008	526	PIETRZAK & PFALL	6,082.50	

	<u>Date</u>	<u>Check #</u>	<u>Payee</u>	<u>Amount</u>	<u>Sub-Totals by Payee</u>
Check	06/03/2008	529	PIETRZAK & PFALL	5,941.50	
Check	08/07/2008	534	PIETRZAK & PFALL	6,000.00	
Check	11/20/2008	541	PIETRZAK & PFALL	6,268.40	
Check	06/03/2009	552	PIETRZAK & PFALL	2,982.50	
Check	10/02/2009	561	PIETRZAK & PFALL	4,000.00	
Check	10/28/2009	562	PIETRZAK & PFALL	600.00	
Check	02/03/2010	571	PIETRZAK & PFALL	797.50	
Check	02/03/2010	572	PIETRZAK & PFALL	1,536.00	
Check	02/24/2010	575	PIETRZAK & PFALL	3,000.00	
Check	04/22/2010	579	PIETRZAK & PFALL	3,619.90	
Check	06/30/2010	587	PIETRZAK & PFALL	3,000.00	
Check	09/01/2010	591	PIETRZAK & PFALL	3,000.00	
Check	10/06/2010	598	PIETRZAK & PFALL	2,932.50	
Check	10/18/2010	599	PIETRZAK & PFALL	2,310.55	
Check	10/20/2010	601	PIETRZAK & PFALL	700.00	
Check	12/06/2010	606	PIETRZAK & PFALL	2,300.00	
Check	12/06/2010	607	PIETRZAK & PFALL	700.00	
Check	12/28/2010	609	PIETRZAK & PFALL	2,648.75	
Check	01/26/2011	611	PIETRZAK & PFALL	3,000.00	
Check	03/01/2011	616	PIETRZAK & PFALL	3,000.00	
Check	03/11/2011	617	PIETRZAK & PFALL	1,750.00	
Check	05/10/2011	626	PIETRZAK & PFALL	3,000.00	
Check	06/08/2011	629	PIETRZAK & PFALL	6,245.55	
Check	07/29/2011	633	PIETRZAK & PFALL	4,000.00	
Check	08/09/2011	634	PIETRZAK & PFALL	2,135.00	
Check	08/26/2011	637	PIETRZAK & PFALL	3,000.00	
Check	09/15/2011	640	PIETRZAK & PFALL	2,756.55	
Check	11/22/2011	648	PIETRZAK & PFALL	3,000.00	
Check	12/02/2011	651	PIETRZAK & PFALL	3,017.25	
Check	12/23/2011	652	PIETRZAK & PFALL	3,000.00	
Check	03/05/2012	658	PIETRZAK & PFALL	4,700.00	
Check	04/10/2012	661	PIETRZAK & PFALL	2,083.75	
Check	05/07/2012	665	PIETRZAK & PFALL	1,406.25	
Check	05/31/2012	667	PIETRZAK & PFALL	2,295.00	
Check	09/24/2012	676	PIETRZAK & PFALL	2,721.25	
Check	10/25/2012	682	PIETRZAK & PFALL	385.00	
Check	02/15/2013	691	PIETRZAK & PFALL	385.00	
Check	06/27/2013	702	PIETRZAK & PFALL	312.50	
Check	05/29/2014	736	PIETRZAK & PFALL	6,576.75	
Check	09/16/2014	744	PIETRZAK & PFALL	2,443.75	
Check	02/06/2015	759	PIETRZAK & PFALL	5,844.37	
Check	06/15/2015	766	PIETRZAK & PFALL	32,098.25	
Check	10/29/2015	777	PIETRZAK & PFALL	7,343.00	
Check	12/14/2015	783	PIETRZAK & PFALL	903.75	
Deposit	10/31/2014		Reimbursement for Bills - Cks 743 & 744	-3,358.02	240,509.32

## Sub-Totals by

	<u>Date</u>	<u>Check #</u>	<u>Payee</u>	<u>Amount</u>	<u>Payee</u>
Check	01/08/2004	383	TIM MILLER ASSOC	10,000.00	
Check	02/11/2004	385	TIM MILLER ASSOC	10,000.00	
Check	05/04/2004	395	TIM MILLER ASSOC	16,000.00	
Check	06/15/2004	402	TIM MILLER ASSOC	10,000.00	
Check	08/05/2004	404	TIM MILLER ASSOC	3,619.97	
Check	09/01/2004	412	TIM MILLER ASSOC	3,805.89	
Check	11/22/2004	416	TIM MILLER ASSOC	1,817.61	
Check	01/05/2005	419	TIM MILLER ASSOC	1,817.61	
Check	01/31/2005	423	TIM MILLER ASSOC	2,591.01	
Check	03/21/2005	430	TIM MILLER ASSOC	3,277.48	
Check	04/26/2005	436	TIM MILLER ASSOC	6,833.13	
Check	06/20/2005	438	TIM MILLER ASSOC	1,000.00	
Check	08/04/2005	443	TIM MILLER ASSOC	2,453.26	
Check	09/13/2005	447	TIM MILLER ASSOC	2,733.21	
Check	02/17/2006	460	TIM MILLER ASSOC	1,223.46	
Check	06/20/2006	471	TIM MILLER ASSOC	4,837.86	
Check	11/03/2006	477	TIM MILLER ASSOC	5,000.00	
Check	01/25/2007	484	TIM MILLER ASSOC	37,481.26	
Check	05/15/2007	498	TIM MILLER ASSOC	3,830.85	
Check	04/22/2010	580	TIM MILLER ASSOC	2,978.75	
Check	05/11/2010	582	TIM MILLER ASSOC	684.35	
Check	06/30/2010	586	TIM MILLER ASSOC	759.50	
Check	08/03/2010	589	TIM MILLER ASSOC	520.00	
Check	09/01/2010	592	TIM MILLER ASSOC	1,175.00	
Check	10/20/2010	600	TIM MILLER ASSOC	455.00	
Check	11/04/2010	602	TIM MILLER ASSOC	568.40	
Check	02/07/2011	613	TIM MILLER ASSOC	2,783.40	
Check	03/04/2011	618	TIM MILLER ASSOC	4,054.24	
Check	03/10/2011	621	TIM MILLER ASSOC	924.20	
Check	07/06/2011	630	TIM MILLER ASSOC	3,244.20	
Check	08/19/2011	636	TIM MILLER ASSOC	2,624.23	
Check	10/09/2011	644	TIM MILLER ASSOC	1,479.30	
Check	12/02/2011	649	TIM MILLER ASSOC	2,700.35	
Check	01/10/2012	653	TIM MILLER ASSOC	4,577.05	
Check	03/27/2012	659	TIM MILLER ASSOC	1,092.40	
Check	04/16/2012	662	TIM MILLER ASSOC	1,043.50	
Check	05/03/2012	664	TIM MILLER ASSOC	2,193.60	
Check	07/03/2012	669	TIM MILLER ASSOC	1,629.93	
Check	10/09/2012	677	TIM MILLER ASSOC	1,248.60	
Check	10/25/2012	681	TIM MILLER ASSOC	135.00	
Check	01/08/2013	686	TIM MILLER ASSOC	713.28	
Check	05/08/2013	696	TIM MILLER ASSOC	290.00	
Check	06/27/2013	701	TIM MILLER ASSOC	1,212.00	
Check	08/28/2013	707	TIM MILLER ASSOC	145.00	
Check	12/31/2013	716	TIM MILLER ASSOC	2,030.00	

				Sub-Totals by	
	Date	Check #	Payee	Amount	Payee
Check	03/27/2014	728	TIM MILLER ASSOC	1,100.00	
Check	06/03/2014	737	TIM MILLER ASSOC	1,193.83	
Check	09/16/2014	743	TIM MILLER ASSOC	4,272.28	
Check	12/14/2015	781	TIM MILLER ASSOC	355.00	176,504.99
Check	05/18/2006	467	TOWN OF MONROE	5,000.00	
Check	11/14/2006	479	TOWN OF MONROE	5,000.00	
Check	10/02/2009	560	TOWN OF MONROE	7,500.00	
Check	02/22/2010	574	TOWN OF MONROE	6,000.00	
Check	06/22/2010	585	TOWN OF MONROE	4,000.00	
Check	03/07/2011	620	TOWN OF MONROE	3,000.00	
Check	08/19/2011	635	TOWN OF MONROE	3,000.00	
Check	09/23/2015	771	TOWN OF MONROE	743.54	34,243.54
Check	07/01/2005	439	USB	2,125.00	2,125.00
Check	02/04/2013	690	Vesper Environmental	<u>3,011.27</u>	<u>3,011.27</u>
				1,162,440.17	1,162,440.17
<b>Other Cost Basis:</b>					
<b>Land &amp; Closing Costs</b>					
					<u>777,888.50</u>
<b>Total Cost Basis</b>					
					<u>1,940,328.67</u>